

Chapter E Initiation Of Complaints Against State Agencies That Willfully Fail To Comply With Laws Protecting The Rights Of Individuals With Disabilities

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I. STATUTORY AUTHORITY

*RI GL 42-51-6 (1) and (3) Governor’s Commission on Disabilities - Duties and RI 42-51-9(4)(iii) and (6) Definitions*¹

II. DEFINITIONS

A. “Commission’s investigator” means the Commission Chairperson, Executive Secretary or the designated , staff and / or Commission member assigned to conduct the investigation and persuasion of the alleged action or pending action.

B. “Respondent” means the entity(ies) alleged responsible for denying people with disabilities the opportunities to exercise all of the rights and responsibilities accorded to citizens of this state.

C. “The Commission” shall mean the [Governor’s Commission on Disabilities](#)².

D. “State agency”³ is defined in RI General Law 42-51-9 (3).

III. INVESTIGATION AND PERSUASION

A. Before the Commission initiates its own complaint against a state agency for failure to comply with laws protecting the rights of individuals with disabilities, the Commission’s investigator shall:

1. Notify that agency of the Commission’s concerns and the issues involved,

2. Investigate alleged action(s) or pending action(s) that would deny or is denying people with disabilities the opportunities to exercise all of the legal rights and responsibilities accorded to citizens of this state; and
3. Attempt to resolve the issue(s) directly with the agency through informal methods of conference, conciliation, and persuasion.

IV. THE COMMISSION AS AGGRIEVED PARTY BEFORE OTHER REGULATORY BODIES

A. The Commission and or its Executive Committee may authorize and designate the Commission Chairperson, Executive Secretary, staff and / or Commission member(s) to represent the Commission:

1. As an aggrieved party or to present testimony, when
2. A matter pending before a regulatory body might deny people with disabilities the opportunities to exercise all of the legal rights and responsibilities accorded to citizens of this state.

B. The Commission's (or Executive Committee's) authorization may be for:

1. A specific matter pending before a specific regulatory body or
2. A blanket authorization encompassing a specific set of circumstances whenever those are pending before the regulatory body of competent jurisdiction.

V. COMMISSION INITIATING LEGAL ACTION

A. The Commission's investigator shall refer a charge to the Commission, when attempt to resolve the issue(s) directly with the agency through informal methods of conference, conciliation, and persuasion have been unsuccessful.

B. The charge shall state:

1. The nature of the actions taken or planned that are alleged to deny or will deny people with disabilities the opportunities to exercise all of the legal rights and responsibilities accorded to citizens of this state;
2. The results of the investigation of those actions;
3. A description of the efforts taken to forestall those actions; and
4. All responses from the respondents explaining their actions and any steps taken or proposed to overcome the effects of those actions.

C. The respondent shall be sent a copy of the charge and invited to make a presentation at the Commission's hearing. The charge must be mailed to the respondent and to each Commissioner at least fifteen (15) business days prior to the hearing, and a notice of the hearing posted in accordance with the Open Meetings law.

D. The Commission shall convene a hearing, in accordance with RIGL 42-35, when a quorum is present:

1. The charge shall be read;
2. The respondent's representative given an opportunity to respond to the charge; and
3. The Commissioners may question both the respondent's representative and the Commission's investigator.

E. The Commission may, at the completion of testimony at the hearing, by majority vote of the members present, initiate a complaint, on behalf of the state, against respondent, if the Commission finds:

1. Probable cause⁴ that a violation of state or federal laws protecting the rights of an individual(s) with disabilities has occurred or will be the result of pending action; and
2. The violation has not been corrected nor has the respondent presented a credible plan to resolve the charge.

F. The power of the Commission's Executive Committee to develop policy between meetings does not extend to the initiation of legal action against state agencies.

VI. FORMS

The Commission's staff shall prepare and revise forms, as necessary.

VII. ENDNOTES

These endnotes are the text of several general laws and are provided for clarification and are not part of the regulation. They are subject to revision, as amended by the General Assembly.

¹ History: Rule proposed on August 25, 1992 Public Hearing on September 21, 1992 Adopted on September 26, 1992 Effective on October 15, 1992 Technical Revisions on October 10, 1997 Public Hearing November 22, 1999 Adopted on December 13, 1999 Effective on January 20, 2000 Technical Amendments Adopted September 13, 2003

² Governor's Commission on Disabilities
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401-462-0100 (voice); 462-0101 (tty) and 462-0106 (fax)
disabilities@gcd.ri.gov (e-mail) and
<http://www.disabilities.ri.gov> (website)

³ RIGL 42-51-9 (3) “State agency” means any department, division, agency, commission, board, office, bureau, council or authority, either branch of the Rhode Island general assembly or any agency or any committee thereof, or any other agency that is in any branch of Rhode Island state government and which exercises governmental functions.

⁴ Using the standard adopted by the RI Commission for Human Rights